

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALISSA M. PINKOWSKI

Plaintiff,

v.

SCOTT W. HARBOUR and SWIFT
TRANSPORTATION CO. OF ARIZONA, LLC,

Defendants.

NOTICE OF REMOVAL

Case №. 1:19-CV-121 [GLS/DJS]

PLEASE TAKE NOTICE that defendants Scott W. Harbour and Swift Transportation Co. of Arizona, LLC (collectively, “Removing Defendants”), by their attorneys, Bennett Schechter Arcuri & Will LLP, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal of the action styled *Alissa M. Pinkowski, Plaintiff, versus Scott W. Harbour and Swift Transportation Co. of Arizona, LLC, Defendants* (the “Action”), from the Supreme Court of the State of New York, County of Schenectady, to the United States District Court for the Northern District of New York.

In support thereof, Removing Defendants state:

1. On or about December 5, 2018, plaintiff Alissa M. Pinkowski commenced the Action by filing a Summons and Complaint in the Supreme Court of the State of New York, County of Schenectady, against the Removing Defendants. A copy of the Summons and Complaint are attached hereto and incorporated herein by reference as **Exhibit A**.
2. On January 17, 2019, the Removing Defendants appeared in the Action by serving their Answer, a copy of which is attached hereto and incorporated herein by reference as

Exhibit B.

3. On January 28, 2019, Removing Defendants received Plaintiff's Supplemental Demand for Relief seeking Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) in damages in this action, a copy of which is attached as **Exhibit C**.

4. Plaintiff Alissa M. Pinkowski is an individual domiciled in the State of New York and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of New York. *See* Ex. A.

5. Defendant Scott W. Harbour is an individual domiciled in the State of West Virginia and, therefore, for the purposes of this Notice of Removal, is a citizen of the State of West Virginia.

6. Defendant Swift Transportation Co. of Arizona, LLC is a limited liability company organized under the laws of the State of Delaware. The sole member of Swift Transportation Co. of Arizona, LLC, is Swift Transportation Co., LLC, a limited liability company organized under the laws of the State of Delaware. The sole member of Swift Transportation Co., LLC, is Swift Transportation Co., Inc., a corporation organized under the laws of the State of Delaware, with a principal place of business located in Arizona. Therefore, for the purposes of this Notice of Removal, Defendant Swift Transportation Co. of Arizona, LLC is a citizen of the States of Delaware and Arizona.

7. This Court has original subject matter jurisdiction over the Action pursuant to 28 U.S.C. §§1332(a) and 1441(b), because (a) there is complete diversity of citizenship among the parties; (b) the amount in controversy exceeds the sum of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs; and (c) none of the parties in interest who are properly joined and served as defendants are citizens of New York State. The

Action may, therefore, be removed pursuant to 28 U.S.C. § 1441(b).

8. This Notice of Removal is timely under 28 U.S.C. § 1446(b)(3) and (c), because it is filed within thirty (30) days of the Removing Defendants' receipt of Plaintiff's Supplemental Demand for Relief (the document from which it was first ascertainable that the case is removable [Ex. C]), and within one (1) year of commencement of the Action.

9. Pursuant to 28 U.S.C. § 1446(b)(2), all defendants who have been properly joined and served join in and consent to the removal of the Action.

10. Pursuant to 28 U.S.C. § 1441(a), removal venue exists in the United States District Court for the Northern District of New York because the Supreme Court, Schenectady County (the Court in which the Action was originally filed) is within the jurisdiction of the Northern District of New York.

11. Pursuant to 28 U.S.C. § 1446(a), all process, pleadings, and orders served to date upon the Defendants are appended hereto. Pursuant to Local Rule 81(a)(3), an index of all documents filed in the state court action is attached hereto as **Exhibit D**.

12. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal has been served upon the Plaintiff and has been filed with the Clerk of the Supreme Court, Schenectady County. *See* Notice of Filing of Notice of Removal, with Affidavit of Service, attached hereto as **Exhibit E**.

13. Removing Defendants reserve the right to amend or supplement this Notice of Removal.

WHEREFORE, Removing Defendants request that the case styled *Alissa M. Pinkowski versus Scott W. Harbour and Swift Transportation Co. of Arizona, LLC, Defendants*, Supreme Court of the State of New York, County of Schenecdady, Index No. 2018-2893, be

removed to this Court, and that this Court take subject matter jurisdiction over the Action.

Dated: Buffalo, New York
January 29, 2019

Yours, etc.,

s/ Joel B. Schechter

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